

State of Wisconsin \ Government Accountability Board

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JUDGE THOMAS H. BARLAND
Chair

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Director and General Counsel

Delivered by email only

October 16, 2014

Dear Election Observer Organization:

We are providing this reminder regarding the rules which govern the conduct of election observers for the 2014 General Election. The Government Accountability Board (G.A.B.) encourages citizens to observe the election process because such activity promotes fair and transparent elections, and assists in detecting issues which require attention at an early stage in the process. Once again, the Board is emphasizing that election observers are welcome at locations where voting and ballot counting occurs, but that observers must take care to ensure that they do not disrupt with or interfere with the election.

The rules for election observers will be the same as those used at the August 12, 2014 Partisan Primary. This correspondence highlights provisions that were first in effect for the Partisan Primary, serves as a reminder of the code of conduct that applies to election observers, and seeks your assistance in ensuring that observers comply with Wisconsin Statutes governing their conduct.

Attached to this correspondence is a copy of the observer regulations which the G.A.B. has advised clerks to apply and enforce at the General Election, which may also be located on our website at <http://gab.wi.gov/publications/rules/gab004>. Also attached is a tri-fold brochure summarizing the observer rules which we encourage you to share with representatives of your organization who will serve as observers, and which may also be found at <http://gab.wi.gov/publications/brochures/observer-rules>. The rules are marked as a draft because they have not yet received final approval from the Legislature but no legislative action on the rules will occur prior to the November General Election.

Key provisions of the rules for election observers include the following (provisions that are new for 2014 are underlined):

1. Election observers must notify the chief inspector upon arriving at the polling place, and present photo identification. Observers must sign in with their full name, address, and the name of the organization or candidate the observer represents, if any, and must also legibly list their name on the Observer Log. The Observer Log is not available for inspection by observers or the public until after the election.
2. The chief inspector may reasonably limit the number of observers representing a particular organization or candidate if necessary due to physical limitations.

3. The chief inspector shall provide the observer with a tag or badge which reads "Election Observer." An observer shall wear this tag or badge at all times when inside the polling place.
4. Observers shall remain in the areas designated as the observation areas by the chief inspector. The observation areas must be situated to enable observers to observe all public aspects of the voting process without disrupting the voting process. The observation areas shall be from three to eight feet from the table at which electors announce their name and address and from the registration table. Election officials must note any deviation from the three-to-eight-feet standard on the Inspectors' Statement and notify the Board within seven days following an election. Election inspectors shall repeat the voter's name and address if observers are unable to hear the voter.
5. All of the observers' questions and challenges shall be directed to the chief election inspector or the chief inspector's designee, except that an observer may ask other inspectors to repeat a voter's name and address if it cannot be heard by the observer. **Observers shall not have direct contact with electors in the polling area, unless requested by a voter to assist with casting a ballot.**
6. **Observers do not have a right to view an individual's proof of residence document displayed for purposes of voter registration.** However, subsequent to the voter's registration, the chief inspector may permit observers to view a voter's registration application and any proof of residence document the voter leaves with election officials if time permits and if doing so does not delay or disrupt the voting process. Observers may not view confidential aspects of the documents, including date of birth, driver's license or state ID number, social security numbers, account numbers and information regarding the voter's financial transactions or medical history, or the address of a confidential voter.
7. Observer conversations shall be kept to a minimum. Observers shall not engage in electioneering, which includes wearing any clothing or buttons intended to influence an election, regardless of whether a candidate is mentioned or portrayed. Observers shall not use cell phones to make voice calls but may use them for text messaging or other non-audible uses. Observers also may not use any video or still cameras inside the polling place while polls are open, but may do so after the polls close provided that such use is not disruptive or interferes with the administration of the election. Observers shall not handle an original version of any election document, including ballots, poll books, registration applications or proof of residence documents.
8. Observers who are qualified electors of the State may challenge for cause any person whom the challenger knows or suspects is not a qualified elector, subject to the provisions of Wis. Stats. §§ 6.92 – 6.95 and Wis. Admin. Code GAB 9. Challenges are limited to the categories noted in Wis. Admin. Code GAB 9.02 related to voter qualifications (except that the residency requirement is 28 days rather than 10 days). Challenges must be supported by specific evidence related to the individual voter. Any individual who abuses the right to challenge may be subject to a lawful order of an election inspector to cease making challenges and removal from the polling place if the individual refuses to obey such an order.

9. As required by Wis. Stat. § 6.875, any individual wishing to observe voting at a location served by special voting deputies must notify the municipal clerk at least 24 hours in advance of the voting. The observation area at a nursing home or adult-care facility must not be located to permit an observer to hear conversations between a voter and an individual providing assistance to the voter. Please note that voters have a constitutional right to a private ballot, and observers must not be permitted close enough to a voter to hear how an elector instructs an assistor to mark their ballot.
10. Observers may accompany election inspectors who conduct curbside voting and may observe that process, but are not permitted to enter the vehicle transporting the curbside voter.
11. Observers shall comply with lawful commands of the chief inspector or shall be subject to removal from the polling place. Observers shall not engage in loud, boisterous or disruptive behavior, or interfere with voting or the conduct of the election. The chief inspector shall warn any offending observer, and if the conduct continues, law enforcement may be summoned to remove the observer. In that case the individual will not be permitted to act as an observer at the same or another polling place for the duration of the election.
12. If an observer is ordered to leave a voting location, the chief inspector is to provide the observer with a written document summarizing the reason for the order, signed by the chief inspector and an inspector of the opposite political party, if applicable. The chief inspector has the sole authority to decide to remove an observer and the other inspector may note their concurrence or disagreement with the decision on the Inspectors' Statement. Municipal clerks are also required to provide the G.A.B. with documentation regarding the removal of any election observer within seven days of an election.

The G.A.B. encourages the responsible exercise of the right to observe the election process. If an observer believes an issue or irregularity has occurred, and is not satisfied with the response of the chief inspector or the municipal clerk, your organization or the individual observer is welcome to contact our staff to determine whether it is appropriate for the G.A.B. to intervene. However, behavior that is disruptive, including conversing with or intimidating voters, or causing undue delays in the registration or voting procedures, will not be tolerated.

We appreciate your organization reminding your observers of the code of conduct which they are required to follow at upcoming elections. For questions regarding this correspondence, please contact the G.A.B. Help Desk at (608) 261-2028, or gabhhelpdesk@wi.gov, or contact me at (608) 266-0136 or michael.haas@wi.gov.

Sincerely,



Michael Haas
Elections Division Administrator
Government Accountability Board